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C O N F I D E N T I A L SECTION 01 OF 03 PRAGUE 000966

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TAGS: [PREL](#) [ASEC](#) [EZ](#)

SUBJECT: RADIO FREE EUROPE'S STRUGGLE WITH CZECH GOVERNMENT
DATA PROTECTION INVESTIGATION

Classified By: Deputy Chief of Mission Mary Thompson-Jones, reasons 1.5
(b,d).

11. (C) SUMMARY AND COMMENT: A Czech government investigation of surveillance detection practices at the Prague headquarters of Radio Free Europe/Radio Liberty (RFE) is gathering steam, with increasing numbers of prominent Czech politicians involved behind the scenes but seemingly unwilling to support RFE publicly. The investigation by the independent Czech Data Protection Office (DPO) hinges on whether RFE is violating Czech law in the manner in which it conducts surveillance detection. RFE has complied with the investigation by submitting general answers to two sets of queries but fears that greater specificity will jeopardize its security (and, by extension, that of the Embassy, since the two surveillance detection systems are virtually identical). RFE has hired local law firm White and Case, whose conversations with the Czech government have led to a possible solution: a formal arrangement between RFE and the Interior Ministry which states that it is the Czech Police who are responsible for RFE's surveillance detection system, and that RFE staff are collecting information on behalf of the Police, thus exempting RFE from DPO jurisdiction. The Embassy will continue to follow this case closely and urge the Czech government for resolution. We face two dangers: a possible fine for RFE of 10 million crowns (approximately USD 500,000), if it is found to be in violation of a 2001 Czech law on data protection, plus a 25,000 crown (approximately USD 1,250) fine, which may be levied repeatedly, if RFE is found to be in non-compliance with the DPO investigation. An additional worry on both U.S. and Czech sides, and a probable reason for Czech leadership reluctance to speak out publicly on this issue, is that RFE's data protection will get mixed up with the political hot potato issue of missile defense, and that the opposition would use both to its advantage. The Czechs may also see this as part of larger ongoing EU dissatisfaction with U.S. data provision and data privacy requirements. END SUMMARY AND COMMENT.

DISGRUNTLED REPORTER LODGES COMPLAINT WITH DATA PROTECTION
OFFICE (DPO)

12. (C) In January 2007, the left-leaning daily Pravo ran a story claiming that RFE was in violation of Czech data protection laws with its surveillance detection system. Post-9/11, the building that currently houses RFE was determined to be vulnerable and the object of hostile surveillance. RSO coordinated closely with RFE on setting up a surveillance detection program, and the Czech government,

the Police in particular, have provided unwavering support in the form of additional forces, vehicles, and barriers. The Pravo article author is reportedly a disgruntled former police officer turned reporter, accounting for many possible motives behind his accusations, including the fact that the governments of virtually all countries RFE broadcasts to, in particular Russia and Iran, are unhappy with its coverage of their politics. Another possibility is that Czech political forces -- perhaps Communists -- would like to see RFE suffer.

The reporter lodged a complaint with the DPO, which launched the investigation, with DPO Inspector Milos Dokoupil sending RFE a February 19 letter with a list of 15 questions concerning RFE's surveillance detection, and stating that if legal obligations prevented RFE from replying it should provide him with an explanation. Neither RFE nor the Embassy has seen the specific complaint; rather, the list of questions appears to center around what happens to the data captured by RFE's surveillance cameras, in particular whether they are sent outside of the Czech Republic.

HEAD OF DPO WAS INVOLVED IN ARRANGING SMOOTH MOVE FOR RFE
FROM MUNICH TO PRAGUE

13. (C) The Office of Data Protection is an independent government agency headed by a presidentially appointed director, Igor Nemec, and charged with the protection of personal data. Interestingly, then-Minister Nemec was named in 1994 by the Czech government as the person authorized to negotiate RFE's move to Prague from Munich. Each DPO Inspector is also appointed by the President; both the office and the individual inspectors appear to enjoy virtual autonomy but ultimately answer to the Prime Minister.

INITIAL RFE AND EMBASSY EFFORTS TO TURN OFF INVESTIGATION

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UNSUCCESSFUL

14. (C) Ambassador Graber sent a March 20 letter to Nemec stressing the Embassy's and RFE's formal links with Czech authorities in the areas of intelligence and law enforcement. Nemec's curt reply stated that once his office receives a complaint, it is legally obligated to investigate it fully. Over the past months, RFE has consulted closely with former Foreign Minister Cyril Svoboda, now Minister-ranked Head of the Legislative Council and a long-time champion of RFE. Ambassador Graber and RFE met on May 21 with Svoboda to discuss a way forward and, according to Svoboda, Prime Minister Mirek Topolanek was aware of the issue. The Ambassador also raised the topic at a June 29 meeting with Finance Minister Miroslav Kalousek and RFE to request an extension of RFE's current lease (the Finance Ministry owns the building). Kalousek was unaware of the issue but promised to follow up. PoleconCouns met on May 4 with MFA Americas Desk head Jakub Skalnik; Skalnik said Foreign Minister Karel Schwarzenberg had already asked him for a brief on the case but made no commitment to pursue it. In addition, conversations with Interior Minister Langer and Security Service Head Lang reveal that they were fully briefed on the case, and sympathetic with RFE, but inclined to believe any action should rest with the MFA.

NO CZECH GOVERNMENT CHAMPION OF RFE

15. (C) Czech government reluctance to come to RFE's aid is all the more bizarre because of its history of unswerving commitment to the radios, beginning with then-President Havel's 1995 offer of nominal rent in Prague's former Czechoslovak parliament building when budget cuts forced the radios to relocate from Munich. The Czechs have cooperated with us for years on post-9/11 security and then-FM Svoboda in April 2005 presented Secretary Rice with a USD 1.25 million contribution from the Czech government toward RFE's relocation to a more secure building. However, it is clear

that the Czech government wants to avoid being portrayed as "America's poodle" in the press. Prime Minister Topolánek took seven months to form a government in 2006 and commands a majority in Parliament only due to the defection of two opposition members. In an early August conversation, MFA Political Director Martin Povejsil insisted on discussing the RFE DPO issue only in a legal framework, rather than in the obvious political light. Povejsil, who appears to have been designated the MFA point person on this issue, said that it was his understanding that RFE was in violation of the 2001 law, making it subject to a possible fine of USD 500,000. While Povejsil thought that we could find a long-term solution by bringing RFE security more formally under the Czech Police, he stressed that any solution will not be retroactive (in other words, does not affect the current investigation). He also made clear that in terms of asking for leniency on the fine issue, it is unlikely that anyone in the Czech Cabinet or MFA will go to bat for RFE.

PERMANENT SOLUTION IN BOTH U.S. AND CZECH PUBLIC INTERESTS

¶6. (C) The security environment was so different when RFE moved to Prague that no formal bilateral agreement exists governing security practices. Then-Presidents Clinton and Havel exchanged letters on the subject, and the lease simply states that "...the Borrower shall be responsible for a reasonable security protection of the Premises." In 2000, the Broadcasting Board of Governors and Diplomatic Security signed an agreement establishing a framework of cooperation to "ensure the security of Federally funded international broadcasting Grantee organizations and operations, including personnel, property and facilities." However, White and Case determined that none of these agreements is enough to exempt RFE from DPO jurisdiction. Initial thoughts of a bilateral agreement were scrapped due to the need for Parliamentary approval, anathema to Czech politicians in the current climate. Thus, the solution laid out by Povejsil appears to be our best hope, with RFE security being more formally organized under the Czech Police, and thus being in the Czech public interest. Another option, which we would need to explore further with the Czech government and with IBB, is RFE -- security only -- falling under IBB jurisdiction, so that it would qualify as an international government organization. (Two IBB staff, under Chief of Mission authority, work in the current RFE building. It is not

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certain whether they will follow RFE to its new headquarters or find office space elsewhere in Prague.) The important thing is to ensure a permanent solution; given that RFE will be moving to its new broadcast center in 2008, this is the ideal time to formalize RFE security practices. The Embassy will continue to urge the Czech government that it is in both our interests to find a permanent solution, since the political climate is not likely to become more stable, and since our bilateral engagement on missile defense will only intensify this fall.

GRABER